

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

THE ILLINOIS STATE TOLL HIGHWAY
AUTHORITY,

Petitioner,

-VS-

WISCONSIN CENTRAL LTD. RAILROAD

Respondent.

Petition for an Order granting authority to replace the dual overhead highway grade separation structure (#383) that carries the Eastbound I-90 Jane Addams Memorial Tollway over the Wisconsin Central Ltd. Railroad tracks (US/DOT #689648K, railroad milepost 20.10) located in the Village of Rosemont, Cook County, Illinois.

No. T14-0069

Chicago, Illinois
August 12, 2014

Met pursuant to notice at 10:00 a.m.

BEFORE:
TIMOTHY E. DUGGAN, Administrative Law Judge.

1 APPEARANCES:

2 ILLINOIS STATE TOLL HIGHWAY AUTHORITY, by
3 MR. ROBERT T. LANE
4 2700 Ogden Avenue
5 Downers Grove, Illinois 60515
6 (630) 241-6800 Extension 1530
7 rlane@getipass.com

8
9 Appearing on behalf of the Petitioner;

10
11 UNION PACIFIC RAILROAD COMPANY, by
12 MR. MACK HARRICE SHUMATE, JR.
13 101 North Wacker Drive, Suite 1920
14 Chicago, Illinois 60606
15 (312) 777-2055
16 mackshumate@up.com

17
18 Appearing on behalf of the Union
19 Pacific Railroad Company in Dockets
20 T14-0070 and T14-0071;

21
22 WISCONSIN CENTRAL LTD., by
23 MR. THOMAS J. HEALEY
24 17641 South Ashland Avenue
25 Homewood, Illinois 60430
26 (708) 332-4381
27 tom.healey@cn.ca

28
29 Appearing on behalf of Wisconsin
30 Central Ltd;

31
32 ILLINOIS COMMERCE COMMISSION, by
33 MR. BRIAN VERCRUYSSSE
34 527 East Capitol Avenue
35 Springfield, Illinois 62701
36 (312) 636-7760
37 bvercruy@icc.illinois.gov

38
39 Appearing on behalf of the Illinois
40 Commerce Commission.

41
42 ALSO PRESENT:

1 KEVIN J. KELL, P.E., HNTB Corporation
2 JIM MAYER, P.E., HNTB Corporation
3 DAVID P. HESLINGA, P.E., V3 Companies

4 SULLIVAN REPORTING COMPANY, by
5 Brad Benjamin, CSR

6 I N D E X

7	<u>Witnesses:</u>	<u>Examination</u>	<u>Further Examination</u>	<u>By Examiner</u>
8	David			
9	Skaleski	13		MR. LANE
10		19		MR. SHUMATE
11		20		MR. VERCRUYSSSE
12	John Venice	25		MR. SHUMATE
13			30	MR. SHUMATE
14	Edd Baswell	N/A		

16 E X H I B I T S

17	<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
18	Exhibit No. 1		10
19	(T14-0069)		
20	Exhibit No. 1		11
21	(T14-0070-0071)		
22	Exhibit No. 2		13
	(T14-0070)		

1 JUDGE DUGGAN: Pursuant to the authority vested
2 in me by the State of Illinois and the Illinois
3 Commerce Commission, I call Dockets T14-69, T14-70
4 and T14-71 for a hearing.

5 May we have the appearances for the
6 record, and we'll note -- first, let's take the
7 appearances that will be applicable to all three
8 cases.

9 Mr. Lane, your appearance first.

10 MR. LANE: Robert Lane, Assistant Attorney
11 General, on behalf of the Tollway.

12 JUDGE DUGGAN: Okay. And you're Assistant
13 Attorney General -- you're representing the
14 Petitioner in this case, and your office address and
15 phone number, please.

16 MR. LANE: It's 2700 Ogden Avenue, Downers
17 Grove, Illinois 60515. And my phone number is
18 (630) 241-6800, Extension 1530.

19 JUDGE DUGGAN: All right. And, Mr. Shumate,
20 you want to get in your appearance on behalf of UP in
21 Dockets T14-70 and 71?

22 MR. SHUMATE: Yes, your Honor.

1 My name is Mack, M-A-C-K, Shumate,
2 S-H-U-M-A-T-E. I'm an attorney for the Union Pacific
3 Railroad Company.

4 Our offices are located at 101 North
5 Wacker Drive, Suite 1920, Chicago, Illinois 60606.
6 My telephone number is area code (312) 777-2055.

7 JUDGE DUGGAN: Very good.

8 And, Mr. Healey, do you want to get in
9 your appearance on behalf of Wisconsin Central in
10 Docket T14-0069?

11 MR. HEALEY: Yes.

12 Good morning, your Honor. Thomas
13 Healey, H-E-A-L-E-Y, on behalf of Wisconsin Central
14 Limited. My office address is 17641 South Ashland
15 Avenue in Homewood, Illinois 60430. Phone number,
16 (708) 332-4381.

17 JUDGE DUGGAN: And, Mr. Vercruysse, you want to
18 appear on behalf of Staff in each of three Dockets,
19 please.

20 MR. VERCRUYSSSE: Thank you, your Honor.

21 Representing Illinois Commerce
22 Commission Staff, Brian Vercruysse,

1 V-E-R-C-R-U-Y-S-S-E, with address at 527 East Capitol
2 Avenue, Springfield, Illinois 62701. Phone number,
3 (312) 636-7760.

4 Thank you, your Honor.

5 JUDGE DUGGAN: Very good.

6 And then let the record show
7 that -- Mack, you're always near that speaker.

8 MR. SHUMATE: Sorry.

9 JUDGE DUGGAN: And let the record show that on
10 the Administrative Law Judge's own Motion that this
11 matter -- that these three matters are consolidated
12 for hearing purposes only. The Dockets remain
13 separated and the exhibits in each case remain
14 separated, and only the common evidence -- it is the
15 purpose of the consolidation such that there will be
16 only one single transcript, but it will be -- the
17 same transcript will be prepared for each case open
18 with a separate cover sheet for each Docket for each
19 of those transcripts.

20 Is that agreeable, Mr. Lane?

21 MR. LANE: Yes, it is.

22 JUDGE DUGGAN: Is that agreeable, Mr. Healey?

1 MR. HEALEY: Yes, sir.

2 JUDGE DUGGAN: Mr. Shumate?

3 MR. SHUMATE: Yes, sir.

4 JUDGE DUGGAN: Mr. Vercruysse?

5 MR. VERCRUYSSSE: Yes, your Honor.

6 JUDGE DUGGAN: Very good.

7 Will Mr. Skaleski, Baswell and Venice

8 raise your right hands.

9 (Witnesses sworn.)

10 JUDGE DUGGAN: You want to proceed, Mr. Lane?

11 MR. LANE: Yes.

12 JUDGE DUGGAN: Or we could do -- let me suggest

13 this. I'm sensing that there's not any objections

14 here, so let's go ahead and get these exhibits into

15 evidence so that the presentation doesn't have to

16 mess with technicalities.

17 MR. HEALEY: If I may, your Honor, on behalf of

18 Wisconsin Central, I did have an opportunity to

19 briefly visit with my client. I don't believe we

20 have objections, but there was some clarifications of

21 things in the exhibits that I think can be handled

22 briefly and off the record.

1 JUDGE DUGGAN: Why don't we go off the record.

2 MR. HEALEY: Do you want to do that now? We

3 can get that out of the way now?

4 JUDGE DUGGAN: Yeah --

5 MR. HEALEY: Or we can do --

6 JUDGE DUGGAN: Let's go off --

7 MR. HEALEY: -- it later.

8 JUDGE DUGGAN: Okay. I'm going to talk now.

9 MR. HEALEY: Yes, sir.

10 JUDGE DUGGAN: Brad, we're off the record.

11 (A discussion was held

12 off the record.)

13 JUDGE DUGGAN: We're on the record.

14 All right. Off the record I'll note

15 that we had a discussion specifically with

16 Mr. Healey's concerns in T14-0069 as to exactly what

17 the impact of the design plans in what's going to be

18 offered as Group Exhibit 1 in that case, and that we

19 believe that we have reached a solution to that.

20 So, the first thing I'll note is that

21 Petitioner in T14-0069 is going to offer what's been

22 marked as Group Exhibit 1 into evidence, which is the

1 front page being an aerial overview of the subject
2 bridge -- row bridge, the next two pages being
3 designs, locations, sketches, and the fourth page
4 being a photograph of the bridge from ground level.

5 And I'll ask first, does that appear
6 to be an accurate description, Mr. Lane.

7 MR. LANE: Yes, it does.

8 JUDGE DUGGAN: Okay. And, secondly, is there
9 any objections to the admission of Group Exhibit 1,
10 Mr. Healey?

11 MR. HEALEY: The railroad --

12 JUDGE DUGGAN: In T14-0069.

13 MR. HEALEY: Yes. In T14-0069, Wisconsin
14 Central Limited has no objection to the admission of
15 the toll roads proffered exhibits.

16 JUDGE DUGGAN: So you're fine with resolving
17 the issue that we talked about off the record with
18 that statement; is that correct?

19 MR. HEALEY: Yes, your Honor. And just to make
20 sure the record is clear, because the plans are not
21 finalized, it is our intent to resolve any
22 discrepancy between the existing exhibit and the

1 final plans with the toll road.

2 JUDGE DUGGAN: Is your intention with offering
3 this exhibit, Mr. Lane, that, in fact, the design
4 plans included in Group Exhibit 1, that the
5 construction will be in accordance with this and the
6 final plans will be consistent with the design plans
7 of T14-0069?

8 MR. LANE: Yes, your Honor, that's accurate.

9 JUDGE DUGGAN: Very good.

10 So, Mr. Vercruysse, any objection.

11 MR. VERCruysse: No objection, your Honor.

12 JUDGE DUGGAN: Very good. Then Group Exhibit 1
13 of T14-0069 is admitted into evidence.

14 (Group Exhibit No. 1
15 {T14-0069} was admitted
16 into evidence.)

17 JUDGE DUGGAN: And T14-0070 and T14-0071, there
18 is -- each one is four pages, each one with an aerial
19 overview on the front page of the subject bridge
20 followed by two pages of the design plans followed by
21 a color photograph, except that in T14-0071 is
22 actually three pages of design plans followed by a

1 color photograph of the bridge at ground level.

2 And do you wish to offer those into
3 evidence, Mr. Lane.

4 MR. LANE: Yes, your Honor.

5 JUDGE DUGGAN: Any objection, Mr. Shumate?

6 MR. SHUMATE: No objection, your Honor.

7 JUDGE DUGGAN: Any objection, Mr. Vercruysse?

8 MR. VERCruysse: No objection, your Honor.

9 JUDGE DUGGAN: Exhibit 1 in T14-0070 and 0071
10 are admitted into evidence.

11 (Exhibit No. 1
12 {T14-0070, T14-0071}
13 were admitted into
14 evidence.)

15 JUDGE DUGGAN: And, then, in the T14-0070 and
16 0071 there is also Exhibit 2, which consists of an
17 aerial overview of the entire stretch of the three
18 bridges at issue in the consolidated Dockets of
19 T14-0069, 70, and 71. It's simply showing their
20 locations in the context of the aerial overview map.

21 Is that an accurate description there,
22 Mr. Lane?

1 MR. LANE: Yes, it is, your Honor.

2 JUDGE DUGGAN: Do you wish to offer --

3 MR. LANE: Yes, we wish to offer that as --

4 entered into evidence as Exhibit 2.

5 JUDGE DUGGAN: It's an identical document being

6 offered in each of the cases, T14-0069 and 0071 as

7 Exhibit 2; is that correct?

8 MR. LANE: Yes, it is, your Honor.

9 JUDGE DUGGAN: Okay. Mr. Shumate, any

10 objection?

11 MR. SHUMATE: No, your Honor. No objection.

12 JUDGE DUGGAN: Mr. Vercruysse, any objections?

13 MR. VERCruysse: No objections, your Honor.

14 JUDGE DUGGAN: Petition Exhibit 2 is admitted

15 in T14-0070, and if I misspoke, the other Exhibit 2

16 is T14-0071; is that correct, Mr. Lane?

17 MR. LANE: Yes, it is.

18 JUDGE DUGGAN: Very good.

19 Okay. Then Petition Exhibit 2 is

20 admitted in those two Dockets.

21

22

1 (Petition Exhibit No. 2
2 {T14-0070} was admitted
3 into evidence.)
4 JUDGE DUGGAN: Do you want to proceed,
5 Mr. Lane?
6 MR. LANE: Yes.
7 DAVID V. SKALESKI,
8 called as a witness, having been first duly sworn,
9 was examined and testified as follows:
10 EXAMINATION
11 BY
12 MR. LANE:
13 Q Mr. Skaleski, would you state your name and
14 spell it for the record, please.
15 A Yes. It's David Skaleski, S-K-A-L-E-S-K-I.
16 Q And what is your occupation?
17 A I am a civil engineer.
18 Q And what are your responsibilities with
19 respect to the tollway projects at issue here this
20 morning?
21 A I am the project manager for Parsons
22 Brinckerhoff who is a DSC representing the tollway on

1 Contract 4015, which is the design contract that
2 extends from Oakton to the Kennedy Expressway, which
3 includes the bridges that we're discussing here
4 today.

5 Q And are you familiar with the three bridges
6 that are at issue here this morning?

7 A Yes, I am.

8 Q And would you describe what the other
9 projects consist of?

10 A Sure. Absolutely.

11 First of all, the bridges are being
12 widened due to the improvement of deconstruction of
13 widening of the I-90 Jane Addams Tollway.

14 The first bridge, 539/540, those
15 bridges are crossing dual Union Pacific Railroad
16 tracks --

17 JUDGE DUGGAN: Tell you what, before we start
18 talking about the bridges by numbers, we should
19 probably place into evidence which Dockets are
20 relevant to which number of bridges by testimony. Or
21 we can stipulate to it.

22 MR. DAVID SKALESKI: 70 is 539/540, right?

1 JUDGE DUGGAN: T14-0069 is Bridge --
2 Mr. Skaleski?
3 MR. DAVID SKALESKI: Yes. 69 is the Wisconsin
4 Central.
5 JUDGE DUGGAN: Hold on --
6 MR. LANE: Bridge 383.
7 MR. DAVID SKALESKI: That's 383, and that's --
8 JUDGE DUGGAN: Hold on. Hold on. Can you hear
9 me up there?
10 MR. DAVID SKALESKI: Sure.
11 JUDGE DUGGAN: I need to make a record here and
12 I need to do it in an orderly fashion.
13 In T14-0069 the bridge at issue is
14 referred to as Bridge 383 Eastbound over I-90; is
15 that correct?
16 MR. DAVID SKALESKI: That is correct.
17 JUDGE DUGGAN: In Docket T14-0071 the bridges
18 at issue are No. 541 and 542, being bridges in both
19 directions over I-90; is that correct?
20 MR. DAVID SKALESKI: Yes, that's correct.
21 JUDGE DUGGAN: In Docket T14-0071 the bridges
22 at issue are No. 539 and 540, once again, being in

1 both directions over I-90, correct?

2 MR. DAVID SKALESKI: Yes, that's correct.

3 JUDGE DUGGAN: All right. Good enough.

4 Mr. Lane, do you want to continue?

5 BY MR. LANE:

6 Q Mr. Skaleski, if you would continue with
7 your description of the projects.

8 A Sure. I'll start with 539/540 since it's
9 on the western part of the project.

10 That is in an existing three-span
11 structure, which will be replaced with a single-span
12 structure with walls at this location. And it will
13 accommodate both the horizontal and vertical
14 clearances required for the contract.

15 The project will -- the outside part
16 of the bridge will be built in 2015. The inside of
17 the bridge will be built in 2016. The UP comments to
18 date have all been addressed. Protective shielding
19 and flagging will be required in the contract.
20 Interruptions to train traffic are not expected and
21 we are also providing at this location under-bridge
22 lighting, which was requested by the UP Railroad,

1 which we are including in our project. And that
2 pretty much summarizes 539 and 540.

3 541 and 542 is also an existing
4 three-span structure that will be replaced by a
5 single-span structure with walls and also
6 accommodating the horizontal / vertical clearances as
7 required in the contract.

8 The construction will follow similar
9 to the previous bridges. The outside will be done in
10 2015. The inside will be done in 2016. We are
11 providing the appropriate flagging for protective
12 shielding and all requirements to maintain traffic
13 during and after construction. All comments from UP
14 Railroad have been addressed to date. And there will
15 be no under-bridge lighting; we have received the
16 waiver from UP on this issue, and we are moving
17 forward with the hundred percent plans on both these
18 sections of bridges.

19 The next section of bridges are for
20 Wisconsin Central. That's the eastbound Bridge 383.
21 That's an existing five-span structure that will be
22 replaced in kind with slope walls. We will also

1 provide the appropriate protective shielding and
2 flagging to accommodate train traffic during
3 construction, and there will be no impacts to train
4 traffic during or after construction on this project.
5 And, as earlier mentioned, there is a right-of-way
6 needs to the south that we're working with CN
7 railroad on in terms of negotiation for those
8 parcels.

9 And that's a summary of all the
10 different bridges that we've talked about earlier
11 today.

12 Q Thank you.

13 MR. LANE: Your Honor, we don't have anything
14 else besides the Summary and the exhibits that were
15 entered into evidence earlier.

16 JUDGE DUGGAN: Okay. Mr. Skaleski, would you
17 spell your name?

18 MR. DAVID SKALESKI: It's S-K-A-L-E-S-K-I.

19 JUDGE DUGGAN: Okay. And each of these bridges
20 are to be constructed in accordance with the design
21 plans submitted as -- in each Docket, correct?

22 MR. DAVID SKALESKI: Correct.

1 JUDGE DUGGAN: Mr. Shumate, any questions?

2 MR. SHUMATE: Yes, your Honor.

3 Mr. Skaleski, just a couple of quick

4 questions here.

5 EXAMINATION

6 BY

7 MR. SHUMATE:

8 Q In referring to the exhibits that the

9 Tollway has offered today, for Bridge No. 539 and 540

10 in T14-0070, did your firm prepare these plans?

11 A Yes.

12 Q And the firm's name is Parsons

13 Brinckerhoff?

14 A Correct.

15 Q And you were hired by the Illinois

16 Department of -- excuse me -- the Illinois State

17 Tollway Authority to prepare these plans?

18 A Correct.

19 Q And were they prepared by engineers

20 licensed to practice in the State of Illinois?

21 A Yes.

22 Q And it's -- I'm going to ask the same type

1 of questions for Bridges 541 and 542 in T14-0071.

2 Those exhibits and those plans were
3 also prepared either by you or by individuals under
4 your direction at Parsons Brinckerhoff?

5 A Correct.

6 Q And that was pursuant to contract with the
7 Illinois State Tollway Authority -- Highway
8 Authority?

9 A Correct.

10 Q Okay.

11 MR. SHUMATE: No further questions, your Honor.

12 JUDGE DUGGAN: Mr. Vercruysse?

13 MR. VERCruysse: Your Honor, a few questions.
14 Thank you.

15 EXAMINATION

16 BY

17 MR. VERCruysse:

18 Q Mr. Skaleski, you testified that the
19 vertical clearance or clearance requirements will be
20 met.

21 Did you mean that the Administrative
22 Code Requirements of Section 1500 would be --

1 A Yes. Correct. That's correct.

2 Q So the vertical clearance would be 23 feet
3 or greater?

4 A Yes. Correct.

5 Q And the horizontal clearance would be 9
6 feet or greater from the center line of track?

7 A Oh, yes. Correct.

8 Q The need for the project is
9 capacity-related and to serve additional volumes of
10 vehicles; is that correct?

11 A That is correct.

12 Q Do you -- number of lanes of travel in each
13 direction. How many lanes are currently in place on
14 the structure --

15 A Three lanes.

16 Q -- in each direction?

17 A In each direction. Correct.

18 Q And then how many will be provided?

19 A Four.

20 Q Four will. And that will handle up to
21 about 80,000 vehicles per day; is that correct?

22 A Approximately. Yes.

1 Q Okay.

2 JUDGE DUGGAN: Brian, I missed that last thing.

3 I heard three and then I heard four.

4 MR. VERCRUYSSSE: The four -- it will be four

5 lanes in each direction with the proposed

6 improvement. And then the second question was

7 relative to the average daily traffic per day. That

8 will accommodate anywhere from about approximately

9 80,000 vehicles per day.

10 JUDGE DUGGAN: Okay. What was "three"?

11 MR. VERCRUYSSSE: Three -- existing is 3 lanes

12 in each direction.

13 JUDGE DUGGAN: Is that the roadway also in

14 general?

15 MR. VERCRUYSSSE: That's correct. Yes.

16 JUDGE DUGGAN: Okay. So even the roadway is

17 going to be four and the bridge is going to be four?

18 MR. DAVID SKALESKI: Yes.

19 MR. VERCRUYSSSE: Yes. Correct.

20 JUDGE DUGGAN: And that's with each of the

21 three bridges, correct?

22 MR. VERCRUYSSSE: Correct.

1 JUDGE DUGGAN: Mr. Skaleski?

2 MR. DAVID SKALESKI: Yes. Correct.

3 JUDGE DUGGAN: Okay. Thank you, Brian.

4 MR. VERCRUYSSSE: Thank you.

5 BY MR. VERCRUYSSSE:

6 Q And so we've hit the vertical clearance and
7 horizontal clearance requirements to capacity.

8 In terms of the project's schedule,
9 can you just highlight when your anticipated letting
10 is for the Tollway project?

11 A The letting for the UP bridges will be
12 towards the end of October. I don't know the exact
13 date offhand.

14 The letting for the Wisconsin Central
15 is later in the year; I believe Sept -- December.

16 MR. HESLINGA: December.

17 MR. DAVID SKALESKI: December, yes.

18 MR. VERCRUYSSSE: Okay, and thank you.

19 BY MR. VERCRUYSSSE:

20 Q And, as you testified, the outside will be
21 constructed in 2015?

22 A Correct.

1 Q And 2016 --

2 A -- will be inside.

3 Q So a completion date of December 31st, 2016

4 would suffice or do you think it should be longer?

5 A 16?

6 Q Correct.

7 A Yeah. It's planned to be completed before

8 then -- substantial and the final completion date.

9 Q Okay.

10 MR. VERCRUYSSSE: That's all I have.

11 Thank you, your Honor. Thank you,

12 Mr. Skaleski.

13 JUDGE DUGGAN: When you say "the inside," what

14 does that mean?

15 MR. DAVID SKALESKI: The bridge will be staged,

16 where in 2015 the bridges will be worked on on the

17 outside to widen to the outside, and then in the

18 subsequent year, 2016, the inside work will be done.

19 JUDGE DUGGAN: So by "the outside," meaning how

20 many lanes?

21 MR. DAVID SKALESKI: Three lanes. There'll be

22 enough for three lanes so we can stage the traffic

1 and shift traffic over. So in the subsequent year
2 you can do work on the inside.

3 JUDGE DUGGAN: Okay.

4 Mr. Healey?

5 MR. HEALEY: I have no questions for the
6 witness, your Honor.

7 JUDGE DUGGAN: Anything further, Mr. Lane?

8 MR. LANE: No. Nothing more, your Honor.

9 JUDGE DUGGAN: Okay.

10 Mr. Shumate, any witnesses?

11 MR. SHUMATE: Yes. I have John Venice. I'd
12 like to call him, please.

13 JOHN VENICE,
14 called as a witness, having been first duly sworn,
15 was examined and testified as follows:

16 EXAMINATION

17 BY

18 MR. SHUMATE:

19 Q Mr. Venice, would you state your name for
20 the record.

21 A First name is John, J-O-H-N, last name is
22 Venice, spelled V-, as in victory, -E-N-I-C-E.

1 Q Mr. Venice, by whom are you currently
2 employed?

3 A The Union Pacific Railroad Company.

4 Q And in what department are you employed?

5 A I'm in the Engineering Department.

6 Q And how long have you been in the
7 Engineering Department?

8 A Just over eight years.

9 Q And how long have you worked for the Union
10 Pacific Railroad and/or its predecessors?

11 A Fifteen and a half years.

12 Q Are you familiar with the petitions that
13 have been filed in this matter?

14 A Yes, I am.

15 Q And there's two matters, correct?

16 A There are two.

17 Q Okay. And have preliminary plans been
18 submitted to the Union Pacific Railroad for their
19 review?

20 A Yes, they have.

21 Q Have they been approved at the stage that
22 they're in?

1 A They have been approved. 60 percent design
2 plans are fully approved by Union Pacific Railroad.

3 Q Okay. Is it contemplated that a standard
4 Construction and Maintenance Agreement will be
5 entered into between the Union Pacific Railroad and
6 the Illinois State Tollway Highway Authority for
7 these two projects?

8 A Yes, that's correct.

9 Q And what are the type of costs that are
10 expected that Union Pacific may incur during the
11 construction of this project?

12 A Well, the only cost that the Union Pacific
13 would incur would be to provide a Union Pacific flag
14 person and also for our design plan review of the
15 plan submissions by the Illinois Tollway.

16 Q Under the Construction and Maintenance
17 Agreement, does it specifically provide that a
18 contract or Right of Entry Agreement would be
19 required for any maintenance in the future of the
20 structure?

21 A Yes. We would expect a contract or Right
22 of Entry be completed by the Tollway's contractor.

1 Q And with regard to the -- all the
2 structures that are before the Judge today, will the
3 maintenance of those structures be the responsibility
4 of the Illinois State Toll Highway Authority?

5 A Yes, sir.

6 Q Will the Union Pacific have any maintenance
7 responsibilities with regard to any of these
8 structures?

9 A No, sir.

10 Q Is there anything I've failed to ask you
11 that you think would be helpful to the Hearing
12 Officer in this matter?

13 A No, sir.

14 Q Okay.

15 MR. SHUMATE: No further questions, your Honor.

16 JUDGE DUGGAN: Let's go off the record.

17 (A discussion was held
18 off the record.)

19 JUDGE DUGGAN: Off the record, I had a quick
20 discussion with regard to the costs and the
21 intentions of the costs and it was represented by
22 Mr. Shumate that the Railroad would, in fact, incur

1 costs for review of the design plans in various
2 stages and also for flagging. And Mr. Healey agreed
3 with that in addition to the potential that, with
4 Mr. Healey's case, they have a land acquisition issue
5 that I believe is different than what is at issue
6 today.

7 But we note that just for the
8 clarification that -- other than that, and that
9 Mr. Lane, you agreed that the Petitioner, the
10 Illinois State Toll Highway Authority has agreed to
11 be responsible for all costs of construction of the
12 structures, these Dockets, as well as reimbursement
13 to the Railroads for their engineers' review of the
14 design plans at various stages and flagging.

15 Is that your understanding and your
16 stipulation, Mr. Lane?

17 MR. LANE: Yes, your Honor. That's accurate.

18 JUDGE DUGGAN: Very good.

19 Okay. Mr. Shumate, you had another
20 question?

21 MR. SHUMATE: Yes, I'd just like to re-call
22 Mr. Venice.

1 Mr. Venice, I have one additional for
2 you.

3 MR. JOHN VENICE: Yes, sir.

4 FURTHER EXAMINATION

5 BY

6 MR. SHUMATE:

7 Q Based on the plans that have been submitted
8 thus far, does the Illinois State Toll Highway
9 Authority have all the real property interests it
10 requires to construct both of those structures?

11 A Yes, they do.

12 Q So no additional property would be required
13 from -- or property interests would be required of
14 the Union Pacific to your knowledge?

15 A No, they won't need any property.

16 Q Okay. Thank you.

17 JUDGE DUGGAN: Very good.

18 Mr. Lane, anything further?

19 MR. LANE: No. Nothing more, your Honor.

20 JUDGE DUGGAN: Mr. Healey, anything further?

21 MR. HEALEY: Nothing further, your Honor.

22 JUDGE DUGGAN: Mr. Shumate?

1 MR. SHUMATE: Nothing, your Honor.

2 JUDGE DUGGAN: Mr. Vercruysse?

3 MR. VERCRUYSSSE: Your Honor, just one point for

4 the record.

5 How many trains operate per day for

6 each railroad, the different bridge locations? I'd

7 just like to have that on the record.

8 If I could ask Mr. Venice, how many

9 trains at each of these structures?

10 MR. JOHN VENICE: Sure. I'll start with

11 T14-0070, which is Structures 539 and 540. It's the

12 Union Pacific Milwaukee Subdivision and approximately

13 20 freight trains a day operate at a timetable speed

14 of a maximum 50 miles an hour.

15 T14-0071, Structures 541 and 542, the

16 train count is approximately one train per week at a

17 maximum speed of 10 miles an hour. All freight

18 trains, no passenger or Amtrak.

19 MR. VERCRUYSSSE: Great. Thank you, very much,

20 Mr. Venice. And I'll hold until we ask the Wisconsin

21 Central or their witness is brought forth if they

22 intend.

1 Is that okay, your Honor?

2 JUDGE DUGGAN: Are we going to have a witness
3 or you just want to answer that question, Mr. Healey?
4 Or what do you -- how do you want to do that?

5 MR. HEALEY: I don't think we prepared the
6 information. I can tell you -- I believe there's 22
7 Metras out there a day is the Metra schedule. And I
8 don't -- with the JA acquisition I'm not sure how
9 many freights are left.

10 MR. DAVID SKALESKI: I meant earlier when the
11 project started, and at the time it was 12 freight
12 trains per day. I met with Patrick --

13 MR. HEALEY: Okay. Pat Jones.

14 MR. SKALESKI: -- and that's what he had given
15 me.

16 MR. HEALEY: And did he give you --

17 JUDGE DUGGAN: Is that going to be good enough,
18 Mr. Venice, if -- or Mr. Vercruysse?

19 Let's have Mr. Skaleski attest to that
20 and the source of his knowledge. At least that will
21 be on the record that way.

22 MR. HEALEY: Okay.

1 JUDGE DUGGAN: Mr. Skaleski, did you have a
2 discussion with someone as to the number of trains
3 and the empty location in the 1469 Docket?

4 MR. DAVID SKALESKI: Right. I met with Patrick
5 Jones earlier in the project --

6 JUDGE DUGGAN: Who is Patrick Jones?

7 MR. HEALEY: I can it put on the record.
8 Patrick Jones is our former Public Works Manager
9 responsible for this territory.

10 JUDGE DUGGAN: And would he have any
11 information as to the number of trains going through
12 the -- under the bridge at the location at issue in
13 Docket 1469, Mr. Healy?

14 MR. HEALEY: He would have access to that
15 information within the company. Yes.

16 JUDGE DUGGAN: Okay. And you'd stipulate to
17 that, correct?

18 MR. HEALEY: Yes, your Honor.

19 JUDGE DUGGAN: Okay, Mr. Skaleski, What did Mr.
20 Jones tell you?

21 MR. SKALESKI: He indicated there were 12
22 freight trains per day. And at the time he had

1 indicated that there were 26 Metra trains but I
2 believe it's 22 because I just recently checked. So
3 it is 22.

4 JUDGE DUGGAN: So a 12 freight is the source of
5 Mr. -- of the personnel for the Railroad, and your 22
6 regarding Metra's source is where?

7 MR. SKALESKI: I had looked on, actually, the
8 Metra Web site and it confirmed 22, and that confirms
9 what was said earlier here.

10 JUDGE DUGGAN: Okay. So 12 freight at 22 Metra
11 per day at the bridge location at 1469.

12 Is that your testimony, Mr. Skaleski?

13 MR. DAVID SKALESKI: Yes.

14 JUDGE DUGGAN: You think that's satisfactory,
15 Mr. Vercruysse?

16 MR. VERCRUYSSE: Yes, it is, your Honor. Thank
17 you very much.

18 JUDGE DUGGAN: Okay. Anything else,
19 Mr. Healey?

20 MR. HEALEY: No, your Honor.

21 JUDGE DUGGAN: Very good.

22 Okay. I want to see if we want to

1 waive ex parte prohibition for the propose of getting
2 an Order prepared in these cases.

3 Mr. Lane?

4 MR. LANE: Yes.

5 JUDGE DUGGAN: As with any cause in a judicial
6 proceeding, the people -- the parties can't be
7 individually talking to me. And, in fact, I think
8 the rules also have a prohibition on talking with
9 Staff to some extent after petitions -- and so that
10 we may all work together, including Mr. Vercruysse
11 and I, would ask that you waive that ex parte
12 prohibition with the understanding that they are for
13 the purpose of drafting an Agreed Order.

14 Is that agreed, Mr. Lane?

15 MR. LANE: Yes, it is.

16 JUDGE DUGGAN: Okay. Mr. Shumate?

17 MR. SHUMATE: Yes, the Union Pacific agrees to
18 waive ex parte communications as outlined.

19 JUDGE DUGGAN: Mr. Healey?

20 MR. HEALEY: Wisconsin Central also agrees with
21 that stipulation.

22 JUDGE DUGGAN: And, Mr. Vercruysse?

1 MR. VERCRUYSSSE: Staff agrees with the
2 stipulation, also.

3 JUDGE DUGGAN: Very good.

4 Okay. Now let's go off the record.

5 (A discussion was held
6 off the record.)

7 JUDGE DUGGAN: Back on the record.

8 Off the record Mr. Vercruysse has
9 offered to do the initial drafts in each case and
10 then work with Mr. Lane and then myself at which
11 point we will hopefully include everybody and get
12 everybody on board.

13 And bear in mind again, that we're not
14 going to get an Order until October 13th no matter
15 what -- well, just there's no emergency. But my turn
16 in date is at least two weeks before that.

17 So even though we are not up against a
18 wall at this point, obviously it's in everybody's
19 interest to keep things moving. So with that in
20 mind, if there's nothing else I'm going to ask the
21 record be marked heard and taken.

22 Mr. Lane, is there anything else?

1 MR. LANE: No, nothing more from the Tollway,
2 your Honor.

3 JUDGE DUGGAN: Mr. Shumate?

4 MR. SHUMATE: Nothing more from the Union
5 Pacific Railroad, your Honor.

6 JUDGE DUGGAN: Mr. Healey?

7 MR. HEALEY: Wisconsin Central has nothing
8 further, your Honor.

9 JUDGE DUGGAN: Mr. Vercruysse?

10 MR. VERCRUYSSSE: Nothing else from Staff, your
11 Honor.

12 JUDGE DUGGAN: Very good. The record's marked
13 heard and taken. Thank you.

14 HEARD AND TAKEN.

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